

IN THE NEWS

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1.0 L&T and EADS tie-up in the defence sector

Larsen & Toubro (“**L&T**”) has formed a joint venture with EADS Defence & Security (“**EADS**”) of France to make products for the Indian defence segment, which is intended to serve as a manufacturing hub for the global market in the foreseeable future. L&T shall initially invest about US \$ 425 million approximately over the next three years in the venture and EADS shall contribute its technology. EADS, which has till now been providing high technology sales to India, wishes to develop an industrial base here and develop a long term partnership. It is estimated that the revenues derived by the joint venture over the next seven year period shall be around US \$ 525 million. The joint venture shall be based in Talegaon, near Pune.

2.0 WIPO move to grant instant patents

Based on a proposal of the US Patent and Trademark Office, the World Intellectual Property Organization (“**WIPO**”) is seeking a comprehensive review of the system for the grant of international patents. This proposal, recently debated in Geneva, if approved, will compel all member states, including India, to grant patents to drugs, approved by any two of the eleven (11) patent offices of countries recognized by WIPO which include US, UK, Germany, and Japan. India is not a part of the elite club of eleven.

The proposal seeks to circumvent certain safeguards in the Indian patent laws that prevent companies from patenting drugs with incremental innovation, unless they demonstrate increased efficacy. Several patent applications including that of the Swiss company Novartis AG, which failed this test, were rejected by the Indian patent office.

The Indian companies see this measure as impinging on India’s sovereignty in determining patentability of applications for inventions and view this attempt to impose the IPR systems of the club of eleven (11) as a hegemonistic exercise. The new measures seek to do away with the flexibility which had been negotiated under the WTO TRIPS agreement, with which India became compliant in 1995.

3.0 US challenge to India’s boric acid end user verification practice

The United States has invoked the WTO Dispute Resolution Forum to challenge India’s practice of allowing the import of boric acid after ascertaining its end use. In the US view, this practice is seen as an attempt to create a non-tariff barrier.

India distinguishes between the use of boric acid for insecticidal purposes which constitute a health hazard, and its non-insecticidal purposes such as its use in antiseptics, flame retardants and in power plants as controlling agents for the fission rate of uranium.

The agriculture ministry permits import after ensuring that the chemical is imported for non-insecticidal use. In its defense, India has clarified that it applies the same rule for domestic

producers, who undergo the rigorous requirement of registration with the Central Insecticide Board & Registration Committee of the Ministry of Agriculture and are required to satisfy the committee that their product shall not be used for insecticidal purposes. For this, the domestic producers are required to maintain elaborate production and sales records. India is seeking to repel the challenge by establishing that it applies the same standards for its domestic producers as it does for the import of boric acid.

4.0 SEBI rules for listing of debt securities simplified

As a part of its continuing efforts to develop corporate bond markets, SEBI has simplified the rules for issuing and listing of non-convertible debt securities by companies. Companies that have floated one debt or equity issue now need to provide only “minimal incremental disclosure” for debt issuance. The justification for this simplification is that a vast amount of information is already in the public domain. Even for a company whose shares are not listed which is seeking to list its debt securities, the disclosures are far less comprehensive than those required for equity listing. The regulator hopes that by simplifying the requirements, debt issues become a feasible route for raising funds.